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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/752,050	01/06/2004	David S. Benco	LUTZ 2 00265	6126
48116	7590	08/10/2007	EXAMINER	
FAY SHARPE/LUCENT 1100 SUPERIOR AVE SEVENTH FLOOR CLEVELAND, OH 44114			LAI, DANIEL	
		ART UNIT	PAPER NUMBER	
		2617		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/752,050	BENCO ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Daniel Lai	2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06 January 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-47 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 January 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Claim Objections***

Claim 35 is objected to because of the following informalities: the recitation "an graduated biller" appears to be an error (emphasis added). Appropriate correction is required.

Claims 45-47 are objected to because of the following informalities: There is no antecedent basis for the limitation "the continuously increasingly discounted billing rate" in claims 35 and 36. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-12, 14, 16-31 and 33 are rejected under 35 U.S.C. 102(a) as being anticipated by Call Center Plus

(<http://web.archive.org/web/20030210080601/callcenterplus.com/pricing.html>), hereinafter CCP.

Regarding claims 1 and 20, CCP discloses a method for charging a subscriber for airtime ("Pricing"). CCP discloses determining a first reference billing rate for a first category of airtime ("USING OUR TOLL FREE NUMBER"). CCP discloses determining a first threshold airtime amount for the first category of airtime ("First: 1-1000 Minutes"). CCP discloses determining a quantity of first category airtime consumed by the subscriber ("Pricing", where CCP discusses the airtime usage for a subscriber). CCP discloses determining a first discounted billing rate for

the first category of airtime that is less than the first reference rate (“Next: 1001-2000 minutes”). CCP discloses charging the first discounted billing rate for at least some first category airtime consumed by the subscriber in excess of the first threshold airtime amount (“Next: 1001-2000 minutes”).

Regarding claim 16, CCP discloses a method and a system for charging a subscriber for airtime (“Pricing”): CCP discloses associating one or more reference billing rates with a respective one or more airtime categories in a calling plan (“USING OUR TOLL FREE NUMBER”). CCP discloses determining one or more respective discounted billing strategies for charging for airtime consumed by the subscriber in excess of one or more calling plan limits associated with a calling plan of the subscriber of the subscriber (“First: 1-1000 Minutes” – “2000+ minutes”). CCP discloses determining one or more airtime amounts in the one or more airtime categories consumed by the subscriber in an airtime billing period (“Pricing”, where CCP discusses the airtime usage for a subscriber). CCP discloses applying the one or more discounted billing strategies to portions of the one or more airtime amounts that are in excess of the calling plan to determine discounted surcharges (“Next: 1001-2000 minutes”). CCP discloses combining the basic charges and discounted surcharges to determine a total charge for the subscriber for the billing period (“First: 1-1000 Minutes” – “2000+ minutes”).

Regarding claims 2 and 21, CCP discloses the limitations of claims 1 and 20 above. CCP further discloses charging the first reference rate for an amount of first category airtime consumed by the subscriber up to the first threshold airtime amount (“First: 1-1000 Minutes”).

Regarding claims 4-6 and 23-25, CCP discloses the limitations as applied to claims 1 and 20 above, CCP discloses charging a second discounted billing rate for the first category airtime

for a second threshold greater than the first threshold with a second discounted rate, and inherently more discounts can be applied to greater thresholds of airtime (“2000+ minutes”).

Regarding claims 7 and 26, CCP discloses the limitations as applied to claims 1 and 20 above, CCP discloses determining a first reference billing rate for a first category of airtime (“USING YOUR OWN TOLL FREE NUMBER”). CCP discloses determining a first threshold airtime amount for the first category of airtime (“First: 1-1000 Minutes”). CCP discloses determining a quantity of first category airtime consumed by the subscriber (“Pricing”, where CCP discusses the airtime usage for a subscriber). CCP discloses determining a first discounted billing rate for the first category of airtime that is less than the first reference rate (“Next: 1001-2000 minutes”). CCP discloses charging the first discounted billing rate for at least some first category airtime consumed by the subscriber in excess of the first threshold airtime amount (“Next: 1001-2000 minutes”).

Regarding claims 8, 9, 27 and 28, CCP discloses the limitations as applied to claims 7 and 26 above. CCP further discloses charging the first reference rate for an amount of first category airtime consumed by the subscriber up to the first threshold airtime amount (“First: 1-1000 Minutes”).

Regarding claims 10-12 and 29-31, CCP discloses the limitations as applied to claims 1 and 20 above, CCP discloses charging a second discounted billing rate for the second category airtime for a second threshold greater than the first threshold with a second discounted rate, and inherently more discounts can be applied to greater thresholds of airtime (“2000+ minutes”).

Regarding claims 14, 17, 18 and 33, CCP discloses the limitations of claims 1 and 20 as applied above. The reference further discloses giving more discount for higher usage (“First: 1-1000 Minutes” – “2000+ minutes”).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 3, 9, 19, 22, 28, 35, 36, 38-41, 43 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over CCP in view of Money et al. (US 2004/0009761 A1, hereinafter Money).

Regarding claim 35, CCP discloses a billing plan to charge a progressively lower rate for airtime consumed by a subscriber during a billing period (“Pricing”). CCP discloses determining one or more total quantities of airtime consumed in one or more airtime categories during the billing period (see “First: 1-1000 Minutes” – “2000+ minutes”, where CCP discusses different plans). CCP discloses applying one or more charges for portions of the one or more total quantities of airtime that are below one or more threshold quantities and to apply at least one discounted billing rate to one or more portions of the one or more total quantities of airtime that are above the one or more threshold quantities of airtime (see “USING OUR TOLL FREE NUMBER” and “USING YOUR OWN TOLL FREE NUMBER”, where CCP discusses about charging different discounted rate for different thresholds). CCP does not disclose apparatus to determine quantities of airtime and a biller to apply charges. In an analogous art, Money discloses (see paragraphs 40-42, where Money discusses AAA (biller) and billing aggregator (call record reviewer)). It would have been obvious to one having ordinary skill in the art at the time of the invention to provide components for billing as disclosed by Money to the billing plan disclosed by CCP such that billing operations can be performed.

Regarding claim 19, CCP discloses the limitations of claim 19 as applied above. CCP does not explicitly disclose processing call detail records. In an analogous art, Money discloses processing usage details record to analyze information regarding the usage (paragraph 41). It would have been obvious to one having ordinary skill in the art at the time of the invention to

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modify the billing plan disclosed by CCP with the usage details record disclosed by Money such that user's usage can be used to determine proper billing amount.

Regarding claims 3, 9, 22, 28 and 36, CCP discloses the limitations of claims 1 and 20 and many of the limitations of claim 35 as applied above. The reference does not teach a flat fee. In an analogous art, Money discloses "A user is commonly charged a flat rate for a set number of minutes of airtime on the cellular wireless network" (paragraph 4). It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the flat rate disclosed by Money with the billing plan disclosed by CCP so that more profits can be made from by service providers when users airtime usage is below the set number of minutes.

Regarding claim 37, CCP discloses the limitations of claim 35 above. CCP further discloses charging the first reference rate for an amount of first category airtime consumed by the subscriber up to the first threshold airtime amount ("First: 1-1000 Minutes").

Regarding claims 38-41, CCP in view of Money disclose the limitations as applied to claim 35 above, CCP discloses charging a second discounted billing rate for the first category airtime for a second threshold greater than the first threshold with a second discounted rate, and inherently more discounts can be applied to greater thresholds of airtime ("2000+ minutes").

Regarding claims 43 and 46, CCP in view of Money disclose the limitations of claim 35 as applied above. The reference further discloses giving more discount for higher usage ("First: 1-1000 Minutes" – "2000+ minutes").

Claims 13, 15, 32 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over CCP in view of Dahm et al. (US 6,301,471 B1, hereinafter Dahm).

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Regarding claims 13, 15, 32 and 34, CCP discloses the limitations of claims 1, 20 and 35 as applied above. The reference further discloses providing discount based on calling plan, but lacks determining discount based on loyalty. In an analogous art, Dahm discloses providing special offer in return for the customer's loyalty to the service provider (col. 2, lines 13-27; col. 8, lines 21-43). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the discounted billing method disclosed by CCP with the loyalty bonus disclosed by Dahm so that service providers can hold on to existing customers so that more profits can be made, as taught by Dahm (col. 1, lines 28-43).

Claims 42, 44, 45 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over CCP in view of Money as applied to claim 35 above, and further in view of Dahm.

Regarding claims 42, 44, 45 and 47, CCP in view of Money disclose the limitations of claim 35 as applied above. CCP further discloses providing discount based on calling plan, but lacks determining discount based on loyalty. In an analogous art, Dahm discloses providing special offer in return for the customer's loyalty to the service provider (col. 2, lines 13-27; col. 8, lines 21-43). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the discounted billing method disclosed by CCP with the loyalty bonus disclosed by Dahm so that service providers can hold on to existing customers so that more profits can be made, as taught by Dahm (col. 1, lines 28-43).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Senn et al. (US 6,704,563 B1) discloses providing discount on usage over a threshold.

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Matz et al. (US 7,054,642 B1) discloses providing discounted cost for cellular service. Hennessy et al. (US 5,991,376) discloses reward system for telecommunication system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Lai whose telephone number is (571) 270-1208. The examiner can normally be reached on Monday – Thursday, 9:00 a.m. – 4:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro can be reached on (571) 272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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